

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

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NAVIGATOR HEARTLAND  
GREENWAY LLC,

Plaintiff,

v.

IOWA UTILITIES BOARD, A DIVISION  
OF THE DEPARTMENT OF COMMERCE,  
STATE OF IOWA,

Defendant.

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CASE NO. EQCE088024

**JOINT STATUS REPORT AND REQUEST  
TO CANCEL OCTOBER 6, 2023 HEARING**

COMES NOW the parties, by and through their counsel, hereby submit the following Joint Status Report and Request to Cancel October 6, 2023 Hearing, and state:

1. In this action, Navigator is seeking an injunction pursuant to Iowa Code §§ 22.5 and 22.8 to protect the confidentiality of its mailing lists, which were requested to be disclosed pursuant to open records requests under the Iowa Open Records Act, Iowa Code chapter 22, submitted to Defendant Iowa Utilities Board (the “IUB” or “Board”).<sup>1</sup>

2. On September 7, 2022, Navigator filed its Petition for Temporary and Permanent Injunction to initiate this action.

3. On September 16, 2022, the Court entered a temporary injunction preventing disclosure of any of the information sought in those open records requests made by others.

4. On December 28, 2022, the Court stayed these proceedings pending the resolution

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<sup>1</sup> See Iowa Utilities Board, *In re: Navigator Heartland Greenway LLC*, Notice of Records Request, Docket No. HLP-2021-0003 (Aug. 24, 2022). In Iowa, the IUB has primary jurisdiction over the siting of hazardous liquids pipelines, and a company proposing to build such a pipeline must obtain a permit from the Board under Iowa Code chapter 479B. Navigator’s proposal is pending in Docket No. HLP-2021-0003. See Iowa Utilities Board, *In re: Navigator Heartland Greenway LLC*, Docket No. HLP-2021-0003, available at <https://efs.iowa.gov/efs/ShowDocketSummary.do?docketNumber=HLP-2021-0003>.

of the case titled *Summit Carbon Solutions, LLC v. Iowa Utils. Bd, et al.*, Polk County, Iowa Case No. CVCV062900 (the “Summit Action”), which involves the confidentiality of the mailing lists of Summit Carbon Solutions, LLC, another pipeline company with a project before the Board, in light of an open records requests under the Iowa Open Records Act, Iowa Code chapter 22.

5. In the Order Granting Plaintiff’s Unopposed Motion to Stay these Proceedings, the Court scheduled a status conference for September 1, 2023.

6. However, on August 16, 2023, the Court entered an Order Continuing Hearing “Continuance Order”), which continued the September 1, 2023 status conference “[d]ue to a scheduling conflict with the Court.”

7. In the Continuance Order, the Court stated that the parties may file a status report with the Court in lieu of the hearing and that the hearing will be cancelled “[i]f all parties have a status report on file prior to the hearing date.”

8. The Continuance Order set October 6, 2023 as the new date for the status conference.

9. Accordingly, the parties submit this Joint Status Report.

10. As previously reported, on August 12, 2022, the Iowa District Court for Polk County in the Summit Action entered the Order Denying Motion for Permanent Injunction.

11. However, on September 2, 2022, Summit filed an appeal and supersedeas bond with the Iowa Supreme Court, thus staying the District Court’s Order (the “Summit Appeal”).

12. The Summit Appeal remains pending, and as of August 9, 2023, the final briefs in the appeal were filed with the Iowa Supreme Court. *See* Request for Transmission of Record on Appeal, *Summit Carbon Solutions, LLC v. Iowa Utils. Bd, et al.*, Polk County, Iowa Case No.

CVCV062900 (Aug. 9, 2023).

13. On August 29, 2023, the Iowa Supreme Court issued a Notice of Retention, informing the parties that the case has been retained for submission to the Court for the 2023-2024 term. In the Notice of Retention, the Court stated that the parties will be notified of the date and time of submission about one month in advance. It is likely that oral argument will be held in April 2024.

14. Given the overlap of issues between this action and the Summit Action, the parties believe that the current action should continue to be stayed pending the resolution of the Summit Appeal. Once the Summit Appeal is resolved, the parties can contact this Court to determine the next steps in this case.

15. Since the parties have submitted this Joint Status Report, and per the Court's prior order, the parties request that the October 6, 2023 hearing be officially cancelled.

WHEREFORE the parties respectfully requests that this Court cancel the hearing scheduled for October 6, 2023, and continue to stay these proceeding pending the resolution of the Summit Appeal, and for such other and further relief as the Court deems fit under the circumstances.

Dated: September 25, 2023

Respectfully submitted,

/s/ Brian P. Rickert

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Dated: September 25, 2023

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Dated: September 25, 2023

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on September 25, 2023, I electronically filed the foregoing with the Clerk of Court by using the Electronic Document Management System, a copy of which will be electronically served upon all counsel of record registered with EDMS via Notice of Electronic Filing or Presentation.

/s/ Brooke E. Johnson, Legal Assistant